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Intel Corporation

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

IN RE HIGH-TECH EMPLOYEE ANTITRUST  
LITIGATION

THIS DOCUMENT RELATES TO:  
ALL ACTIONS

Master Docket No. 11-CV-2509-LHK

**INTEL CORPORATION'S  
AMENDED ANSWER TO  
PLAINTIFFS' CONSOLIDATED  
AMENDED COMPLAINT**

Pursuant to the Stipulation and Order Regarding Amending Answers and Affirmative Defenses entered on June 15, 2012 (dkt. no. 152), Defendant Intel Corporation ("Intel"), by and through its undersigned attorneys, hereby files its amended answer to Plaintiffs' Consolidated Amended Complaint ("CAC") dated September 13, 2011, admitting, denying and otherwise alleging as follows (the numbered paragraphs correspond to those in the CAC):

1. To the extent that paragraph 1 purports to state a legal conclusion, Intel is not required to respond. To the extent that paragraph 1 alleges conduct on the part of other Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on that basis denies them. Intel otherwise denies the allegations in paragraph 1.

2. To the extent that paragraph 2 purports to state a legal conclusion, Intel is not

1 required to respond. To the extent that paragraph 2 alleges conduct on the part of other  
2 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
3 that basis denies them. Intel otherwise admits that the CAC purports to allege violations of  
4 federal and state laws and to seek certain remedies. Intel states that Plaintiffs or the Court have  
5 dismissed some of their alleged claims and requests for relief. Except as expressly admitted,  
6 Intel denies the allegations in paragraph 2, and specifically denies that it has violated any law or  
7 that Plaintiffs are entitled to any relief.

8 3. To the extent that paragraph 3 purports to state a legal conclusion, Intel is not  
9 required to respond. To the extent that paragraph 3 alleges conduct on the part of other  
10 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
11 that basis denies them. Intel admits that the Antitrust Division of the Department of Justice  
12 (“DOJ”) investigated Intel’s recruiting practices in 2009 and 2010. Intel denies Plaintiffs’  
13 characterization of the DOJ investigation or any conclusions of fact or law made by the DOJ,  
14 including any quoted language from the DOJ in paragraph 3. Except as expressly admitted, Intel  
15 denies the allegations in paragraph 3.

16 4. Intel admits that the DOJ did not seek a monetary penalty as a result of its  
17 investigation. Except as expressly admitted, Intel denies the allegations in paragraph 4.

18 5. To the extent that paragraph 5 purports to state a legal conclusion, Intel is not  
19 required to respond. Intel otherwise admits that the CAC purports to allege violations of federal  
20 and state laws and to seek certain remedies. Intel states that Plaintiffs or the Court have  
21 dismissed some of their alleged claims and requests for relief. Except as expressly admitted,  
22 Intel denies the allegations in paragraph 5.

23 6. To the extent that paragraph 6 purports to state a legal conclusion, Intel is not  
24 required to respond. Intel otherwise admits the allegations in paragraph 6.

25 7. To the extent that paragraph 7 purports to state a legal conclusion, Intel is not  
26 required to respond. To the extent that paragraph 7 alleges conduct on the part of other  
27 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
28 that basis denies them. Intel admits that its principal place of business is located in Santa Clara,

1 California. Intel also admits that venue is proper. Except as expressly admitted, Intel denies the  
2 allegations in paragraph 7.

3 8. To the extent that paragraph 8 purports to state a legal conclusion, Intel is not  
4 required to respond. To the extent that paragraph 8 alleges conduct on the part of other  
5 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
6 that basis denies them. Intel admits that it is subject to the jurisdiction of this Court. Except as  
7 expressly admitted, Intel denies the allegations in paragraph 8.

8 9. To the extent that paragraph 9 purports to state a legal conclusion, Intel is not  
9 required to respond. Intel otherwise denies the allegations in paragraph 9.

10 10. To the extent that paragraph 10 purports to state a legal conclusion, Intel is not  
11 required to respond. To the extent that paragraph 10 alleges conduct on the part of other  
12 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
13 that basis denies them. Intel otherwise denies the allegations in paragraph 10.

14 11. To the extent that paragraph 11 purports to state a legal conclusion, Intel is not  
15 required to respond. To the extent that paragraph 11 alleges conduct on the part of other  
16 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
17 that basis denies them. Intel otherwise denies the allegations in paragraph 11.

18 12. To the extent that paragraph 12 purports to state a legal conclusion, Intel is not  
19 required to respond. Intel denies that any class does or can exist in this matter, and on that basis  
20 denies any and all allegations related to membership in a class. Intel admits that its principal  
21 place of business is located in Santa Clara. Except as expressly admitted, Intel denies the  
22 allegations in paragraph 12.

23 13. To the extent that paragraph 13 purports to state a legal conclusion, Intel is not  
24 required to respond. To the extent that paragraph 13 alleges conduct on the part of other  
25 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
26 that basis denies them. Intel otherwise denies the allegations in paragraph 13. Intel specifically  
27 denies that any class does or can exist in this matter, and on that basis denies any and all  
28 allegations related to membership in a class.

1           14. To the extent that paragraph 14 purports to state a legal conclusion, Intel is not  
2 required to respond. Intel otherwise denies the allegations in paragraph 14.

3           15. To the extent that paragraph 15 purports to state a legal conclusion, Intel is not  
4 required to respond. Intel otherwise denies the allegations in paragraph 15.

5           16. Intel lacks sufficient information or belief to admit or deny the allegations in  
6 paragraph 16 and on that basis denies them.

7           17. Intel admits that it employed Mark Fichtner in the State of Arizona as a software  
8 engineer from approximately May 2008 through May 2011. Intel denies that Mark Fichtner  
9 suffered injury to his business or property as a result of Intel's alleged conduct, and denies that  
10 Intel committed any alleged violations. Intel lacks sufficient information or belief to admit or  
11 deny the other allegations in paragraph 17 and on that basis denies them.

12           18. Intel lacks sufficient information or belief to admit or deny the allegations in  
13 paragraph 18 and on that basis denies them.

14           19. Intel lacks sufficient information or belief to admit or deny the allegations in  
15 paragraph 19 and on that basis denies them.

16           20. Intel lacks sufficient information or belief to admit or deny the allegations in  
17 paragraph 20 and on that basis denies them.

18           21. Intel lacks sufficient information or belief to admit or deny the allegations in  
19 paragraph 21 and on that basis denies them.

20           22. Intel lacks sufficient information or belief to admit or deny the allegations in  
21 paragraph 22 and on that basis denies them.

22           23. Intel lacks sufficient information or belief to admit or deny the allegations in  
23 paragraph 23 and on that basis denies them.

24           24. Intel admits the allegations in paragraph 24.

25           25. Intel lacks sufficient information or belief to admit or deny the allegations in  
26 paragraph 25 and on that basis denies them.

27           26. Intel lacks sufficient information or belief to admit or deny the allegations in  
28 paragraph 26 and on that basis denies them.

1           27. Intel lacks sufficient information or belief to admit or deny the allegations in  
2 paragraph 27 and on that basis denies them.

3           28. To the extent that paragraph 28 purports to state a legal conclusion, Intel is not  
4 required to respond. Intel denies that it participated in any alleged conspiracy or violation or  
5 law. Intel otherwise lacks sufficient information or belief to admit or deny the allegations in  
6 paragraph 28 and on that basis denies them.

7           29. To the extent that paragraph 29 purports to state a legal conclusion, Intel is not  
8 required to respond. Intel denies that it participated in any alleged conspiracy or violation or  
9 law. To the extent that paragraph 29 alleges conduct on the part of other Defendants or unnamed  
10 DOES, Intel lacks sufficient information or belief to admit or deny those allegations and on that  
11 basis denies them. Intel otherwise denies the allegations in paragraph 29. Specifically, Intel  
12 denies that its “corporate officers, members of the board[] of directors, or senior executives”  
13 were “co-conspirators with other Defendants in the violations alleged in the” CAC.

14           30. To the extent that paragraph 30 purports to state a legal conclusion, Intel is not  
15 required to respond. Intel admits that Plaintiffs purport to serve as representatives of the  
16 identified putative class, but otherwise denies the allegations in paragraph 30.

17           31. To the extent that paragraph 31 purports to state a legal conclusion, Intel is not  
18 required to respond. Intel otherwise denies the allegations in paragraph 31. Intel specifically  
19 denies that any class does or can exist in this matter, and on that basis denies any and all  
20 allegations related to the number of alleged class members.

21           32. To the extent that paragraph 32 purports to state a legal conclusion, Intel is not  
22 required to respond. Intel otherwise denies the allegations in paragraph 32. Intel specifically  
23 denies any and all allegations related to whether questions of law or fact are common to the  
24 alleged class.

25           33. To the extent that paragraph 33 purports to state a legal conclusion, Intel is not  
26 required to respond. Intel otherwise denies the allegations in paragraph 33. Intel specifically  
27 denies any and all allegations related to whether common questions or law and fact predominate  
28 over individual questions.

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1           34. To the extent that paragraph 34 purports to state a legal conclusion, Intel is not  
2 required to respond. Intel otherwise denies the allegations in paragraph 34. Intel specifically  
3 denies any and all allegations related to whether the named plaintiffs' claims are typical of the  
4 claims of the alleged class.

5           35. To the extent that paragraph 35 purports to state a legal conclusion, Intel is not  
6 required to respond. Intel otherwise denies the allegations in paragraph 35. Intel specifically  
7 denies any and all allegations related to whether the named plaintiffs will fairly and adequately  
8 represent the interests of the alleged class.

9           36. To the extent that paragraph 36 purports to state a legal conclusion, Intel is not  
10 required to respond. Intel otherwise denies the allegations in paragraph 36.

11           37. To the extent that paragraph 37 purports to state a legal conclusion, Intel is not  
12 required to respond. Intel otherwise denies the allegations in paragraph 37. Intel specifically  
13 denies any and all allegations related to whether final injunctive relief is appropriate to all  
14 members of the alleged class.

15           38. To the extent that paragraph 38 purports to state a legal conclusion, Intel is not  
16 required to respond. Intel otherwise denies the allegations in paragraph 38. Intel specifically  
17 denies any and all allegations related to whether a class action is superior to alternative methods  
18 of adjudication.

19           39. To the extent that paragraph 39 alleges conduct on the part of other Defendants,  
20 Intel lacks sufficient information or belief to admit or deny those allegations and on that basis  
21 denies them. Intel admits that it employed Mark Fichtner during the alleged Class Period in  
22 Arizona. Except as expressly admitted, Intel denies the allegations in paragraph 39. Intel  
23 specifically denies that any class does or can exist in this matter, and on that basis denies any and  
24 all allegations related to where alleged class members were employed.

25           40. To the extent that paragraph 40 purports to state a legal conclusion, Intel is not  
26 required to respond. To the extent that paragraph 40 alleges conduct on the part of other  
27 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
28 that basis denies them. Intel otherwise denies the allegations in paragraph 40.

1           41. To the extent that paragraph 41 alleges conduct on the part of other Defendants,  
2 Intel lacks sufficient information or belief to admit or deny those allegations and on that basis  
3 denies them. Intel otherwise denies the allegations in paragraph 41.

4           42. Intel denies the allegations in paragraph 42.

5           43. To the extent that paragraph 43 alleges conduct on the part of other Defendants or  
6 other high technology companies, Intel lacks sufficient information or belief to admit or deny  
7 those allegations and on that basis denies them. Intel otherwise denies the allegations in  
8 paragraph 43.

9           44. To the extent that paragraph 44 alleges conduct on the part of other companies,  
10 Intel lacks sufficient information or belief to admit or deny those allegations and on that basis  
11 denies them. Intel admits that hiring employees from other companies may involve free-riding  
12 and impose costs on those companies. Except as expressly admitted, Intel denies the allegations  
13 in paragraph 44.

14           45. To the extent that paragraph 45 alleges conduct on the part of other companies,  
15 Intel lacks sufficient information or belief to admit or deny those allegations and on that basis  
16 denies them. Intel otherwise denies the allegations in paragraph 45.

17           46. To the extent that paragraph 46 alleges conduct involving any individual  
18 employee, Intel lacks sufficient information or belief to admit or deny those allegations and on  
19 that basis denies them. Intel admits that when one of its employees received a job offer from  
20 another company, that employee may, depending on his or her own individual circumstances,  
21 have: (1) accepted that job offer; (2) used that offer to attempt to negotiate a pay increase or  
22 other benefit; (3) stayed at Intel without negotiating a pay increase or other benefit; or (4) taken  
23 some other action. Except as expressly admitted, Intel denies the allegations in paragraph 46.

24           47. To the extent that paragraph 47 alleges conduct involving any individual  
25 employee, Intel lacks sufficient information or belief to admit or deny those allegations and on  
26 that basis denies them. Intel admits that its employees' use of information relating to potential  
27 compensation from other employers would have varied, depending on their individual  
28 circumstances. Except as expressly admitted, Intel denies the allegations in paragraph 47.

1           48. To the extent that paragraph 48 alleges conduct on the part of other companies,  
2 Intel lacks sufficient information or belief to admit or deny those allegations and on that basis  
3 denies them. Intel otherwise denies the allegations in paragraph 48.

4           49. To the extent that paragraph 49 alleges conduct on the part of other companies,  
5 Intel lacks sufficient information or belief to admit or deny those allegations and on that basis  
6 denies them. Intel otherwise denies the allegations in paragraph 49.

7           50. To the extent that paragraph 50 alleges conduct on the part of other companies,  
8 Intel lacks sufficient information or belief to admit or deny those allegations and on that basis  
9 denies them. Intel otherwise denies the allegations in paragraph 50.

10          51. To the extent that paragraph 51 alleges conduct on the part of other Defendants,  
11 Intel lacks sufficient information or belief to admit or deny those allegations and on that basis  
12 denies them. Intel admits that it assigns different salary ranges to different types of jobs and that  
13 compensation may vary with grade level, but states that each employee's compensation was  
14 based on his or her individual circumstances. Intel admits that it offers a variety of employee  
15 benefits and programs, and strives to maintain a positive and healthful workplace, in order to  
16 maintain high employee morale and productivity, retain employees, and attract new and talented  
17 employees. One of the many tools it uses to achieve these goals is compensation. Except as  
18 expressly admitted, Intel denies the allegations in paragraph 51.

19          52. To the extent that paragraph 52 alleges conduct on the part of other Defendants,  
20 Intel lacks sufficient information or belief to admit or deny those allegations and on that basis  
21 denies them. Intel admits that it assigns different salary ranges to different types of jobs and that  
22 compensation may vary with grade level, but states that each employee's compensation was  
23 based on his or her individual circumstances. Intel reviews salary ranges annually. Except as  
24 expressly admitted, Intel denies the allegations in paragraph 52.

25          53. To the extent that paragraph 53 alleges conduct on the part of other Defendants,  
26 Intel lacks sufficient information or belief to admit or deny those allegations and on that basis  
27 denies them. Intel admits that it sometimes engages in negotiations regarding compensation  
28 levels with individual employees that vary depending on the specific circumstances applicable to



1 that employee. Except as expressly admitted, Intel denies the allegations in paragraph 53.

2 54. To the extent that paragraph 54 alleges conduct on the part of Defendants, Intel  
3 lacks sufficient information or belief to admit or deny those allegations and on that basis denies  
4 them. Intel otherwise denies the allegations in paragraph 54.

5 55. To the extent that paragraph 55 purports to state a legal conclusion, Intel is not  
6 required to respond. To the extent that paragraph 55 alleges conduct on the part of other  
7 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
8 that basis denies them. Intel otherwise denies the allegations in paragraph 55, and specifically  
9 denies that it entered any alleged conspiracy.

10 56. Intel lacks sufficient information or belief to admit or deny the allegations in  
11 paragraph 56 and on that basis denies them.

12 57. Intel lacks sufficient information or belief to admit or deny the allegations in  
13 paragraph 57 and on that basis denies them.

14 58. Intel lacks sufficient information or belief to admit or deny the allegations in  
15 paragraph 58 and on that basis denies them.

16 59. Intel lacks sufficient information or belief to admit or deny the allegations in  
17 paragraph 59 and on that basis denies them.

18 60. Intel lacks sufficient information or belief to admit or deny the allegations in  
19 paragraph 60 and on that basis denies them.

20 61. Intel lacks sufficient information or belief to admit or deny the allegations in  
21 paragraph 61 and on that basis denies them.

22 62. Intel lacks sufficient information or belief to admit or deny the allegations in  
23 paragraph 62 and on that basis denies them.

24 63. Intel lacks sufficient information or belief to admit or deny the allegations in  
25 paragraph 63 and on that basis denies them.

26 64. Intel lacks sufficient information or belief to admit or deny the allegations in  
27 paragraph 64 and on that basis denies them.

28 65. Intel lacks sufficient information or belief to admit or deny the allegations in

1 paragraph 65 and on that basis denies them.

2 66. Intel lacks sufficient information or belief to admit or deny the allegations in  
3 paragraph 66 and on that basis denies them.

4 67. Intel lacks sufficient information or belief to admit or deny the allegations in  
5 paragraph 67 and on that basis denies them.

6 68. Intel lacks sufficient information or belief to admit or deny the allegations in  
7 paragraph 68 and on that basis denies them.

8 69. Intel lacks sufficient information or belief to admit or deny the allegations in  
9 paragraph 69 and on that basis denies them.

10 70. Intel lacks sufficient information or belief to admit or deny the allegations in  
11 paragraph 70 and on that basis denies them.

12 71. Intel lacks sufficient information or belief to admit or deny the allegations in  
13 paragraph 71 and on that basis denies them.

14 72. Intel lacks sufficient information or belief to admit or deny the allegations in  
15 paragraph 72 and on that basis denies them.

16 73. Intel lacks sufficient information or belief to admit or deny the allegations in  
17 paragraph 73 and on that basis denies them.

18 74. Intel lacks sufficient information or belief to admit or deny the allegations in  
19 paragraph 74 and on that basis denies them.

20 75. Intel lacks sufficient information or belief to admit or deny the allegations in  
21 paragraph 75 and on that basis denies them.

22 76. Intel lacks sufficient information or belief to admit or deny the allegations in  
23 paragraph 76 and on that basis denies them.

24 77. Intel lacks sufficient information or belief to admit or deny the allegations in  
25 paragraph 77 and on that basis denies them.

26 78. Intel lacks sufficient information or belief to admit or deny the allegations in  
27 paragraph 78 and on that basis denies them.

28 79. Intel lacks sufficient information or belief to admit or deny the allegations in

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1 paragraph 79 and on that basis denies them.

2 80. Intel lacks sufficient information or belief to admit or deny the allegations in  
3 paragraph 80 and on that basis denies them.

4 81. Intel lacks sufficient information or belief to admit or deny the allegations in  
5 paragraph 81 and on that basis denies them.

6 82. Intel lacks sufficient information or belief to admit or deny the allegations in  
7 paragraph 82 and on that basis denies them.

8 83. Intel lacks sufficient information or belief to admit or deny the allegations in  
9 paragraph 83 and on that basis denies them.

10 84. Intel lacks sufficient information or belief to admit or deny the allegations in  
11 paragraph 84 and on that basis denies them.

12 85. Intel lacks sufficient information or belief to admit or deny the allegations in  
13 paragraph 85 and on that basis denies them.

14 86. Intel lacks sufficient information or belief to admit or deny the allegations in  
15 paragraph 86 and on that basis denies them.

16 87. Intel lacks sufficient information or belief to admit or deny the allegations in  
17 paragraph 87 and on that basis denies them.

18 88. Intel lacks sufficient information or belief to admit or deny the allegations in  
19 paragraph 88 and on that basis denies them.

20 89. Intel lacks sufficient information or belief to admit or deny the allegations in  
21 paragraph 89 and on that basis denies them.

22 90. Intel lacks sufficient information or belief to admit or deny the allegations in  
23 paragraph 90 and on that basis denies them.

24 91. Intel lacks sufficient information or belief to admit or deny the allegations in  
25 paragraph 91 and on that basis denies them.

26 92. Intel lacks sufficient information or belief to admit or deny the allegations in  
27 paragraph 92 and on that basis denies them.

28 93. Intel lacks sufficient information or belief to admit or deny the allegations in

1 paragraph 93 and on that basis denies them.

2 94. Intel lacks sufficient information or belief to admit or deny the allegations in  
3 paragraph 94 and on that basis denies them.

4 95. Intel lacks sufficient information or belief to admit or deny the allegations in  
5 paragraph 95 and on that basis denies them.

6 96. Intel lacks sufficient information or belief to admit or deny the allegations in  
7 paragraph 96 and on that basis denies them.

8 97. Intel lacks sufficient information or belief to admit or deny the allegations in  
9 paragraph 97 and on that basis denies them.

10 98. To the extent that paragraph 98 purports to state a legal conclusion, Intel is not  
11 required to respond. Intel admits that senior executives at Google and Intel had communications  
12 regarding Google recruiting Intel employees. Except as expressly admitted, Intel denies the  
13 allegations in paragraph 98.

14 99. Intel denies the allegations in paragraph 99.

15 100. To the extent that paragraph 100 purports to state a legal conclusion, Intel is not  
16 required to respond. To the extent that paragraph 100 alleges conduct on the part of other  
17 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
18 that basis denies them. Intel otherwise denies the allegations in paragraph 100.

19 101. To the extent that paragraph 101 alleges conduct on the part of other Defendants,  
20 Intel lacks sufficient information or belief to admit or deny those allegations and on that basis  
21 denies them. Intel otherwise denies the allegations in paragraph 101.

22 102. To the extent that paragraph 102 alleges conduct on the part of other Defendants,  
23 Intel lacks sufficient information or belief to admit or deny those allegations and on that basis  
24 denies them. Intel otherwise denies the allegations in paragraph 102.

25 103. Intel lacks sufficient information or belief to admit or deny the allegations in  
26 paragraph 103 and on that basis denies them.

27 104. Intel lacks sufficient information or belief to admit or deny the allegations in  
28 paragraph 104 and on that basis denies them.

1           105. Intel lacks sufficient information or belief to admit or deny the allegations in  
2 paragraph 105 and on that basis denies them.

3           106. Intel lacks sufficient information or belief to admit or deny the allegations in  
4 paragraph 106 and on that basis denies them.

5           107. Intel lacks sufficient information or belief to admit or deny the allegations in  
6 paragraph 107 and on that basis denies them.

7           108. To the extent that paragraph 108 purports to state a legal conclusion, Intel is not  
8 required to respond. To the extent that paragraph 108 alleges conduct on the part of other  
9 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
10 that basis denies them. Intel otherwise denies the allegations in paragraph 108.

11           109. To the extent that paragraph 109 purports to state a legal conclusion, Intel is not  
12 required to respond. To the extent that paragraph 109 alleges conduct on the part of other  
13 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
14 that basis denies them. Intel otherwise denies the allegations in paragraph 109.

15           110. To the extent that paragraph 110 purports to state a legal conclusion, Intel is not  
16 required to respond. To the extent that paragraph 110 alleges conduct on the part of other  
17 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
18 that basis denies them. Intel otherwise denies the allegations in paragraph 110.

19           111. To the extent that paragraph 111 purports to state a legal conclusion, Intel is not  
20 required to respond. To the extent that paragraph 111 alleges conduct on the part of other  
21 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
22 that basis denies them. Intel admits that the DOJ investigated its recruiting practices beginning  
23 in 2009. Intel disputed the allegations made by the DOJ. Intel admits that it produced  
24 documents to the DOJ in response to a Civil Investigative Demand. Except as expressly  
25 admitted, Intel denies the allegations in paragraph 111.

26           112. To the extent that paragraph 112 purports to state a legal conclusion, Intel is not  
27 required to respond. To the extent that paragraph 112 alleges conduct on the part of other  
28 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on

1 that basis denies them. Intel denies Plaintiffs' characterization of the DOJ investigation or any  
2 conclusions of fact or law made by the DOJ, including any quoted language from the DOJ in  
3 paragraph 112. Except as expressly admitted, Intel denies the allegations in paragraph 112.

4 113. To the extent that paragraph 113 purports to state a legal conclusion, Intel is not  
5 required to respond. To the extent that paragraph 113 alleges conduct on the part of other  
6 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
7 that basis denies them. Intel denies Plaintiffs' characterization of the DOJ investigation or any  
8 conclusions of fact or law made by the DOJ, including any quoted language from the DOJ in  
9 paragraph 113. Except as expressly admitted, Intel denies the allegations in paragraph 113.

10 114. To the extent that paragraph 114 purports to state a legal conclusion, Intel is not  
11 required to respond. To the extent that paragraph 114 alleges conduct on the part of other  
12 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
13 that basis denies them. Intel admits that the DOJ filed a Complaint against Defendants in *United*  
14 *States v. Adobe Systems, Inc., et al.*, Case No. 10-cv-01629-RBW (D.D.C.). Intel disputed the  
15 allegations in the Complaint. Intel admits that it entered into a settlement with the DOJ, but  
16 states that the entry of the resulting Final Judgment did not constitute any admission by Intel that  
17 the law has been violated or of any issue of fact or law, other than that the jurisdictional facts  
18 alleged in the DOJ's Complaint are true. Except as expressly admitted, Intel denies the  
19 allegations in paragraph 114.

20 115. To the extent that paragraph 115 purports to state a legal conclusion, Intel is not  
21 required to respond. To the extent that paragraph 115 alleges conduct on the part of other  
22 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
23 that basis denies them. Intel admits it entered into a settlement with the DOJ, but states that the  
24 entry of the resulting Final Judgment did not constitute any admission by Intel that the law has  
25 been violated or of any issue of fact or law, other than that the jurisdictional facts alleged in the  
26 DOJ's Complaint are true. Intel denies Plaintiffs' characterization of the Final Judgment, which  
27 speaks for itself. Intel otherwise denies the allegations in paragraph 115.

28 116. To the extent that paragraph 116 purports to state a legal conclusion, Intel is not

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1 required to respond. To the extent that paragraph 116 alleges conduct on the part of other  
2 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
3 that basis denies them. Intel otherwise denies the allegations in paragraph 116.

4 117. Intel admits that the Final Judgment did not impose any monetary penalty.  
5 Except as expressly admitted, Intel denies the allegations in paragraph 117.

6 118. To the extent that paragraph 118 purports to state a legal conclusion, Intel is not  
7 required to respond. To the extent that paragraph 118 alleges conduct on the part of other  
8 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
9 that basis denies them. Intel otherwise denies the allegations in paragraph 118, and specifically  
10 denies that any employee was harmed by any “unlawful conspiracy.”

11 119. Intel hereby incorporates by reference its responses to the allegations contained in  
12 paragraphs 1-118 of the CAC as set forth above.

13 120. To the extent that paragraph 120 purports to state a legal conclusion, Intel is not  
14 required to respond. To the extent that paragraph 120 alleges conduct on the part of other  
15 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
16 that basis denies them. Intel otherwise denies the allegations in paragraph 120.

17 121. To the extent that paragraph 121 purports to state a legal conclusion, Intel is not  
18 required to respond. To the extent that paragraph 121 alleges conduct on the part of other  
19 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
20 that basis denies them. Intel otherwise denies the allegations in paragraph 121.

21 122. To the extent that paragraph 122 purports to state a legal conclusion, Intel is not  
22 required to respond. To the extent that paragraph 122 alleges conduct on the part of other  
23 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
24 that basis denies them. Intel otherwise denies the allegations in paragraph 122.

25 123. To the extent that paragraph 123 purports to state a legal conclusion, Intel is not  
26 required to respond. To the extent that paragraph 123 alleges conduct on the part of other  
27 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
28 that basis denies them. Intel otherwise denies the allegations in paragraph 123.

1           124. To the extent that paragraph 124 purports to state a legal conclusion, Intel is not  
2 required to respond. To the extent that paragraph 124 alleges conduct on the part of other  
3 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
4 that basis denies them. Intel otherwise denies the allegations in paragraph 124. Specifically,  
5 Intel denies Plaintiffs' characterization of Intel's conduct and therefore denies that its officers,  
6 directors, agents, employees, or representatives authorized, ordered, or participated in any illegal  
7 conduct.

8           125. To the extent that paragraph 125 purports to state a legal conclusion, Intel is not  
9 required to respond. To the extent that paragraph 125 alleges conduct on the part of other  
10 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
11 that basis denies them. Intel otherwise denies the allegations in paragraph 125.

12           126. Intel admits that the CAC purports to seek certain relief. Except as expressly  
13 admitted, Intel denies the allegations in paragraph 126, and specifically denies that Plaintiffs are  
14 entitled to any relief.

15           127. Intel hereby incorporates by reference its responses to the allegations contained in  
16 paragraphs 1-126 of the CAC as set forth above.

17           128. To the extent that paragraph 128 purports to state a legal conclusion, Intel is not  
18 required to respond. To the extent that paragraph 128 alleges conduct on the part of other  
19 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
20 that basis denies them. Intel otherwise denies the allegations in paragraph 128.

21           129. To the extent that paragraph 129 purports to state a legal conclusion, Intel is not  
22 required to respond. To the extent that paragraph 129 alleges conduct on the part of other  
23 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
24 that basis denies them. Intel otherwise denies the allegations in paragraph 129.

25           130. To the extent that paragraph 130 purports to state a legal conclusion, Intel is not  
26 required to respond. To the extent that paragraph 130 alleges conduct on the part of other  
27 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
28 that basis denies them. Intel otherwise denies the allegations in paragraph 130.



1           131. To the extent that paragraph 131 purports to state a legal conclusion, Intel is not  
2 required to respond. To the extent that paragraph 131 alleges conduct on the part of other  
3 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
4 that basis denies them. Intel otherwise denies the allegations in paragraph 131.

5           132. To the extent that paragraph 132 purports to state a legal conclusion, Intel is not  
6 required to respond.

7           133. To the extent that paragraph 133 purports to state a legal conclusion, Intel is not  
8 required to respond. To the extent that paragraph 133 alleges conduct on the part of other  
9 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
10 that basis denies them. Intel otherwise denies the allegations in paragraph 133. Specifically,  
11 Intel denies Plaintiffs' characterization of Intel's conduct and therefore denies that its officers,  
12 directors, agents, employees, or representatives authorized, ordered, or participated in any illegal  
13 conduct.

14           134. To the extent that paragraph 134 purports to state a legal conclusion, Intel is not  
15 required to respond. To the extent that paragraph 134 alleges conduct on the part of other  
16 Defendants, Intel lacks sufficient information or belief to admit or deny those allegations and on  
17 that basis denies them. Intel otherwise denies the allegations in paragraph 134.

18           135. Intel admits that the CAC purports to seek certain relief. Except as expressly  
19 admitted, Intel denies the allegations in paragraph 135, and specifically denies that Plaintiffs are  
20 entitled to any relief.

21           136. Intel hereby incorporates by reference its responses to the allegations contained in  
22 paragraphs 1-135 of the CAC as set forth above.

23           137. Plaintiffs have voluntarily dismissed their Third Claim For Relief. *See* Dkt. #119  
24 at 24. Therefore, no response to this paragraph is required.

25           138. Plaintiffs have voluntarily dismissed their Third Claim For Relief. *See* Dkt. #119  
26 at 24. Therefore, no response to this paragraph is required.

27           139. Plaintiffs have voluntarily dismissed their Third Claim For Relief. *See* Dkt. #119  
28 at 24. Therefore, no response to this paragraph is required.

1           140. Plaintiffs have voluntarily dismissed their Third Claim For Relief. *See* Dkt. #119  
2 at 24. Therefore, no response to this paragraph is required.

3           141. Plaintiffs have voluntarily dismissed their Third Claim For Relief. *See* Dkt. #119  
4 at 24. Therefore, no response to this paragraph is required.

5           142. Plaintiffs have voluntarily dismissed their Third Claim For Relief. *See* Dkt. #119  
6 at 24. Therefore, no response to this paragraph is required.

7           143. Plaintiffs have voluntarily dismissed their Third Claim For Relief. *See* Dkt. #119  
8 at 24. Therefore, no response to this paragraph is required.

9           144. Intel hereby incorporates by reference its responses to the allegations contained in  
10 paragraphs 1-143 of the CAC as set forth above.

11           145. The Court has dismissed Plaintiffs' Fourth Claim For Relief. *See* Dkt. #119 at 29.  
12 Therefore, no response to this paragraph is required.

13           146. The Court has dismissed Plaintiffs' Fourth Claim For Relief. *See* Dkt. #119 at 29.  
14 Therefore, no response to this paragraph is required.

15           147. The Court has dismissed Plaintiffs' Fourth Claim For Relief. *See* Dkt. #119 at 29.  
16 Therefore, no response to this paragraph is required.

17           148. The Court has dismissed Plaintiffs' Fourth Claim For Relief. *See* Dkt. #119 at 29.  
18 Therefore, no response to this paragraph is required.

19           149. The Court has dismissed Plaintiffs' Fourth Claim For Relief. *See* Dkt. #119 at 29.  
20 Therefore, no response to this paragraph is required.

21           150. The Court has dismissed Plaintiffs' Fourth Claim For Relief. *See* Dkt. #119 at 29.  
22 Therefore, no response to this paragraph is required.

23           151. The Court has dismissed Plaintiffs' Fourth Claim For Relief. *See* Dkt. #119 at 29.  
24 Therefore, no response to this paragraph is required.

25           152. The Court has dismissed Plaintiffs' Fourth Claim For Relief. *See* Dkt. #119 at 29.  
26 Therefore, no response to this paragraph is required.

27           153. This paragraph is part of Plaintiffs' Prayer for Relief and therefore requires no  
28 response.

154. This paragraph is part of Plaintiffs' Prayer for Relief and therefore requires no response.

155. This paragraph is part of Plaintiffs' Prayer for Relief and therefore requires no response.

156. This paragraph is part of Plaintiffs' Prayer for Relief and therefore requires no response.

157. This paragraph is part of Plaintiffs' Prayer for Relief and therefore requires no response.

158. This paragraph is part of Plaintiffs' Prayer for Relief and therefore requires no response.

159. This paragraph is part of Plaintiffs' Prayer for Relief and therefore requires no response.

160. This paragraph is part of Plaintiffs' Prayer for Relief and therefore requires no response.

161. This paragraph is part of Plaintiffs' Prayer for Relief and therefore requires no response.

162. This paragraph is part of Plaintiffs' Prayer for Relief and therefore requires no response.

163. This paragraph is part of Plaintiffs' Prayer for Relief and therefore requires no response.

164. This paragraph is part of Plaintiffs' Prayer for Relief and therefore requires no response.

## JURY DEMAND

165. Intel demands trial by jury of all issues so triable under the law.

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**SEPARATE AND ADDITIONAL DEFENSES**

166. Intel sets forth below its separate and additional defenses. Each defense is asserted as to all claims against Intel. By setting forth these additional defenses, Intel does not assume the burden of proving any fact, issue, or element of a cause of action where such burden properly belongs to the Plaintiffs. Moreover, nothing stated herein is intended or shall be construed as an admission that any particular issue or subject matter is relevant to the Plaintiffs' allegations.

**FIRST SEPARATE AND ADDITIONAL DEFENSE  
(Statute of Limitations)**

167. As a defense to Plaintiffs' CAC, and each and every allegation contained therein, Intel alleges that each of Plaintiffs' claims is barred in whole or in part by applicable statutes of limitations, including 15 U.S.C. §15B and Cal. Bus. & Prof. Code §16750.1. The first complaint in this action was filed on May 4, 2011. Plaintiffs, however, challenge conduct that allegedly caused class members injuries dating back to January 1, 2005. This action therefore seeks relief for alleged injuries suffered outside the relevant four-year limitations period.

**SECOND SEPARATE AND ADDITIONAL DEFENSE  
(Good Faith/Legitimate Business Justification)**

168. As a defense to Plaintiffs' CAC, and each and every allegation against Intel contained therein, Intel alleges that its actions were undertaken in good faith to advance legitimate business interests and had the effect of promoting, encouraging, and increasing competition. By asserting this defense, Intel does not concede it has the ultimate burden of proving procompetitive benefits resulting from its conduct or that those benefits outweighed any alleged anticompetitive effects.

169. Intel has regularly entered into collaborations with other companies, including Google, Apple, and Pixar, to create innovative, exciting products that capture consumers' attention and improve their lives. The health of these collaborative relationships, and of basic supplier-customer relationships, was critical to Intel's success as a company. As such, in general, Intel did not actively recruit employees from its customers or joint development partners

1 because doing so tended to breed distrust and resentment, thereby undermining those  
2 relationships and the related collaborations. Meetings and discussions between Intel and its  
3 partners or potential partners were at times emotional and heated when the collaborators were  
4 concerned about losing employees during joint projects. Those concerns, at times, undermined  
5 and endangered such collaborations, and Intel was sensitive to actions that threatened any  
6 collaboration involving a significant investment of time and resources.

7 170. In close collaborations such as those between Intel and Google, for example,  
8 active solicitation of a business partner's employees deprived the collaboration of key talent on  
9 which it depended and undermined the trust between the parties necessary to the collaboration's  
10 success, thereby weakening or even threatening the viability of the existing collaborations and  
11 reducing the likelihood of future collaborations. This in turn threatened to harm consumers by  
12 depriving them of the full benefits of new, better, more efficient products and services. On the  
13 other hand, the productive working relationships between Intel and its collaborators were  
14 enhanced when the companies were able to work closely together without fear that their key  
15 employees would be recruited away based on relationships that developed during their  
16 collaborative efforts.

17 171. To the extent Intel entered into alleged agreements with collaborators not to  
18 actively solicit each other's employees, such agreements protected and facilitated the  
19 collaboration between the parties. These collaborations had the effect of promoting,  
20 encouraging, and increasing competition.

21 **THIRD SEPARATE AND ADDITIONAL DEFENSE**  
22 **(Failure to Mitigate Damages)**

23 172. As a defense to Plaintiffs' CAC, and each and every allegation contained therein,  
24 Intel alleges that some purported class members have failed to mitigate their damages, if any,  
25 and that any recovery should be reduced or denied accordingly.

26 173. Some purported class members, including some Intel employees, knew about the  
27 alleged conduct during the class period. These purported class members had the ability to  
28 actively seek employment at the other Defendant companies (e.g., by submitting a resume or

1 attending a job fair) or to research compensation at the other Defendant companies. Doing so  
 2 would have allowed those purported class members to mitigate any alleged damage caused by  
 3 the alleged conduct.

4 174. All purported class members were free to seek out employment opportunities at  
 5 other companies, including other Defendants. None of the alleged agreements restricted the  
 6 ability of purported class members to seek new employment from any of the other Defendant  
 7 companies. Nor did any of the alleged agreements prevent a Defendant from hiring any of the  
 8 other Defendants' employees if those employees were actively seeking new employment.  
 9 Finally, purported class members had access to many independent sources of compensation  
 10 information including, but not limited to, friends, professional networks, job boards,  
 11 headhunters, and internet sites such as glassdoor.com.

12 **FOURTH SEPARATE AND ADDITIONAL DEFENSE**  
 13 **(Settlement and Release; Waiver)**

14 175. As a defense to Plaintiffs' CAC, and each and every allegation contained therein,  
 15 Intel alleges that Plaintiffs' claims are barred in whole or in part to the extent Plaintiffs have,  
 16 prior to the time of any judgment being entered in this matter, settled, released, or waived any  
 17 claims against Intel or any other Defendant.

18 176. During the class period, some purported class members entered into a termination  
 19 or severance agreement upon their departure from one of the Defendants that included: (1) a  
 20 release of any and all claims related to that purported class member's employment; and/or (2) a  
 21 waiver of the right to assert claims related to that purported class member's employment. These  
 22 releases and/or waivers cover the claims asserted in Plaintiffs' CAC.

23 **FIFTH SEPARATE AND ADDITIONAL DEFENSE**  
 24 **(Failure to Exhaust Remedies)**

25 177. As a defense to Plaintiffs' CAC, and each and every allegation contained therein,  
 26 Intel alleges that Plaintiffs' claims are barred in whole or in part because certain of the purported  
 27 class members are subject to mandatory arbitration, a remedy they have failed to exhaust.  
 28 Specifically, during the class period, some purported class members entered into a termination or

severance agreement upon their departure from one of the Defendants that included a clause mandating arbitration of the claims asserted in Plaintiffs' CAC.

**SIXTH SEPARATE AND ADDITIONAL DEFENSE  
(Reservation of Rights)**

178. Intel currently has insufficient knowledge or information on which to form a belief as to whether it may have additional, as yet unstated, defenses available. Intel expressly reserves its right to assert additional affirmative defenses in the event discovery indicates they would be appropriate.

WHEREFORE, Intel prays for judgment as follows:

1. That Plaintiffs, and members of the purported class and subclass on whose behalf they purport to sue, take nothing by reason of their Consolidated Amended Complaint;
2. That the Court offset the recovery, if any, by Plaintiffs, and members of any purported class and subclass on whose behalf they purport to sue, by any amounts paid by Intel, or other third parties, to them, in connection with claims relating to the subject matter of this lawsuit;
3. That Intel recover its expenses, costs and attorneys' fees in connection with this lawsuit; and
4. That the Court grant Intel such further relief as it deems just and proper.

DATED: July 5, 2012

Respectfully Submitted,

Bingham McCutchen LLP

By: s/Donn P. Pickett

Donn P. Pickett  
Attorneys for Defendant  
Intel Corporation